

AMENDED IN ASSEMBLY APRIL 24, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2125

Introduced by Assembly Member Vargas

February 21, 2006

An act to amend Sections ~~662~~, 673, 677, 923.5, 1215.13, ~~1658~~, 1676, 1707, ~~1729~~, 1733, 1749, 1775.4, 1808, 11558, and 11629.85 of the Insurance Code, and to add Sections 1064.13, ~~1727.5~~, and 11549 to, the Insurance Code, and to amend Section 12253 of the Revenue and Taxation Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2125, as amended, Vargas. Insurance.

Existing law regulates the business of insurance.

This bill would make numerous changes in the law regulating insurance. Among other things, it would revise provisions relating to cancellation and reinstatement of financed insurance, modify insurer liquidation procedure, and change the definition of “commercially domiciled insurer” for purposes of regulating insurance holding companies. This bill would also ~~grant the Insurance Commissioner the authority to collect e-mail information, allows~~ allow the commissioner to create an examination for life agents solely for funeral and burial policies, ~~and require agents to maintain copies of receipts~~, as specified. This bill would also provide for the merger of foreign and domestic mutual holding companies eliminate a minimum reserve requirement for workers’ compensation carriers, as specified, require surplus lines brokers who make late monthly payments of premiums taxes to pay interest, as specified. This bill would also revise provisions that require the commissioner to prepare and propose a

plan regarding low cost automobile insurance to the relevant Senate and Assembly committees, as specified.

This bill would also make technical, nonsubstantive changes in the law.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 662 of the Insurance Code is amended~~
2 ~~to read:~~

3 ~~662. No notice of cancellation of a policy to which Section~~
4 ~~661 applies shall be effective unless mailed or delivered by the~~
5 ~~insurer to the named insured, lienholder, or additional interest at~~
6 ~~least 20 days prior to the effective date of cancellation; provided,~~
7 ~~however, that where cancellation is for nonpayment of premium,~~
8 ~~at least 10 days' notice of cancellation accompanied by the reason~~
9 ~~therefor shall be given. Unless the reason accompanies or is~~
10 ~~included in the notice of cancellation, the notice of cancellation~~
11 ~~shall state or be accompanied by a statement that upon written~~
12 ~~request of the named insured, mailed or delivered to the insurer~~
13 ~~not less than 15 days prior to the effective date of cancellation,~~
14 ~~the insurer will specify the reason for such cancellation.~~

15 ~~This section shall not apply to nonrenewal. Subdivision (a) of~~
16 ~~Section 1013 of the Code of Civil Procedure shall apply if the~~
17 ~~notice is mailed.~~

18 ~~SEC. 2.~~

19 ~~SECTION 1. Section 673 of the Insurance Code is amended~~
20 ~~to read:~~

21 ~~673. (a) As used in this section, "exercise the right to cancel"~~
22 ~~means the act of formally electing to use the right of the insured~~
23 ~~to cancel any insurance policy in accordance with and subject to~~
24 ~~the provisions of that policy when the right to use that right of the~~
25 ~~insured has been transferred or assigned by the insured in writing~~
26 ~~executed by, or on behalf of, the insured to a lender who has~~
27 ~~advanced to the insurer the premium for the policy. The transfer~~
28 ~~or assignment may be by power of attorney or other document.~~
29 ~~The transfer or assignment may, but need not, be accompanied~~
30 ~~by an assignment of any unearned premium due the insured on~~
31 ~~cancellation.~~

1 (b) No lender shall exercise the right to cancel a financed
2 insurance policy because of the default of the insured under a
3 premium payment loan agreement except in accordance with this
4 section.

5 (c) Written notice of the exercise of the right to cancel shall be
6 mailed by the lender to the insurer and to the insured at the
7 address shown on the premium payment loan agreement or his or
8 her last known address, specifying a date five days or more after
9 the date of mailing of such notice as the effective date of
10 cancellation. Any insurer may, in writing delivered to the lender,
11 waive, generally or specifically, the right to receive such notice
12 or notices. A copy of such notice may be mailed to the producer
13 of record if known to the lender, but failure to do so shall not
14 affect any rights granted by this section. This subdivision shall
15 not apply to an industrial loan company.

16 (d) An industrial loan company shall, in giving the insured 10
17 days' notice of its intent to cancel pursuant to Section 18608 of
18 the Financial Code, furnish a copy of such notice to the insurance
19 agent or insurance broker indicated on the premium finance
20 agreement. After expiration of the 10-day period, the industrial
21 loan company may thereafter, in the name of the insured, cancel
22 the insurance contract or contracts by mailing to the insurer a
23 written notice of cancellation, and the insurance contract shall be
24 canceled as if the notice of cancellation had been submitted by
25 the insured person, but without requiring the return of the
26 insurance contract or contracts. The industrial loan company
27 shall also mail a notice of cancellation, setting forth the effective
28 date of cancellation of the finance insurance contract, to the
29 insured at his or her last known address and to the insurance
30 agent or insurance broker indicated on the premium finance
31 agreement. For the purposes of this subdivision, the words
32 "premium finance agreement" shall have the same meaning as
33 that specified in Section 18564 of the Financial Code.

34 (e) A written exercise of that right containing a confirmation
35 of the effective date of cancellation shall be mailed by the lender
36 to the insurer within five days following that effective date of
37 cancellation specified in the notice described in subdivision (c)
38 unless the insured has cured any and all defaults. Cancellation
39 shall be effective on the financed insurance policy without
40 requiring the return of the insurance policy or insurance policies,

1 except as provided in subdivisions (f) and (g), on the
2 confirmation date specified in the written exercise of that right.
3 This subdivision shall not apply to an industrial loan company.

4 (f) All statutory, regulatory, and contractual restrictions
5 providing that the financed insurance policy may not be canceled
6 unless notice is given to a governmental agency, mortgagee, or
7 other third party shall apply where cancellation is effected under
8 this section. The insurer shall give the prescribed notice on behalf
9 of itself or the insured to any governmental agency, mortgagee,
10 or other third party on or before the fifth business day after the
11 day it receives the written exercise of cancellation right
12 containing confirmation of the cancellation date from the lender,
13 as provided in subdivision (e), or a written notice of cancellation
14 from an industrial loan company, pursuant to subdivision (d), and
15 shall, for the purpose of the notice, determine the effective date
16 of cancellation as to those persons mentioned in this subdivision
17 only, taking into consideration the number of days' notice
18 required to complete the cancellation.

19 (g) Whenever such a financed insurance policy is canceled by
20 any party for any reason:

21 (1) The insurer shall, in accordance with the written
22 agreements of which it has notice, return to the lender such
23 unearned premiums as are due to the lender. The amount of the
24 return premiums shall be based upon the confirmed date of
25 cancellation specified in subdivision (e), or upon the written
26 notice of cancellation specified in subdivision (d) in the case of
27 an industrial loan company, lessened by the amount, if any, to
28 compensate equitably the insurer for carrying the risk of loss as
29 to any governmental agency, mortgagee, or other parties
30 specified in subdivision (f) from that date to the effective date of
31 cancellation as to those parties.

32 (2) When a financed insurance policy is canceled, or the
33 insured discontinues payments to a lender, the insurer shall
34 calculate the return premium on a pro rata basis. This paragraph
35 shall not apply to any policy issued under an assigned risk plan
36 or to any policy with respect to which the insurer has made a loan
37 to the insured for the purposes of payment of premiums for the
38 policy.

39 (h) The commissioner may amend the rules and regulations of
40 any assigned risk plan, fair plan, or similar plan to provide for the

1 equitable assignment of insurance risks among insurers now in
2 existence or hereafter established, in such manner as may be
3 necessary to carry out the purposes of this section.

4 (i) A lender which sends a written exercise of cancellation
5 right or a written notice of cancellation to an insurer, as provided
6 in subdivision (c), or subdivision (d) in the case of an industrial
7 loan company, thereby represents that he or she has a valid right
8 so to do and to receive the unearned premium. If the lender
9 thereby accomplishes the cancellation and receives an unearned
10 premium, such representation shall be conclusive as between the
11 insurer and the lender. An insurer relying upon the written
12 exercise of that right containing a confirmation of cancellation
13 date and giving, when applicable, notice as required by
14 subdivision (e), shall be relieved from complying with any other
15 duty or form of cancellation required by this code.

16 (j) This section shall not apply where the insurer exercises its
17 own right to cancel the policy for nonpayment of premium, direct
18 or indirect, or otherwise. Such a cancellation shall be subject to
19 all applicable provisions of the policy, this code, except this
20 section, and any rights of the lender of which the insurer has
21 written notice.

22 (k) Whenever a lender or industrial loan company cancels a
23 policy as described in this section and then requests the insurer to
24 reinstate the policy, the insurer shall provide written notice by
25 mail to the insured, agent/broker, and lender or industrial loan
26 company within 15 days that the reinstatement has been accepted
27 or rejected.

28 (l) This section shall apply only to contracts entered into
29 between an insured and a lender on or after January 1, 1974.

30 ~~SEC. 3.~~

31 *SEC. 2.* Section 677 of the Insurance Code is amended to
32 read:

33 677. (a) All notices of cancellation shall be in writing, mailed
34 to the named insured at the address shown in the policy, or to his
35 or her last known address, and shall state, with respect to policies
36 in effect after the time limits specified in Section 676, (1) which
37 of the grounds set forth in Section 676 is relied upon, and, in
38 accordance with the requirements of subdivisions (a) and (e) of
39 Section 791.10, and (2) the specific information supporting the
40 cancellation, the specific items of personal and privileged

1 information that support those reasons, if applicable, and
2 corresponding summary of rights.

3 (b) For purposes of this section, a lienholder's copy of those
4 notices shall be deemed mailed if, with the lienholder's consent,
5 it is delivered by electronic transmittal, facsimile, or personal
6 delivery.

7 ~~SEC. 4.~~

8 *SEC. 3.* Section 923.5 of the Insurance Code is amended to
9 read:

10 923.5. Each insurer transacting business in this state shall at
11 all times maintain reserves in an amount estimated in the
12 aggregate to provide for the payment of all losses and claims for
13 which the insurer may be liable, and to provide for the expense of
14 adjustment or settlement of losses and claims.

15 The reserves shall be computed in accordance with regulations
16 made from time to time by the commissioner. The promulgation
17 of the regulations by the commissioner, or any changes thereto or
18 amendments thereof, shall be in accordance with the procedure
19 provided in Chapter 3.5 (commencing with Section 11340) of
20 Part 1 of Division 3 of Title 2 of the Government Code. The
21 commissioner shall make the regulations upon reasonable
22 consideration of the ascertained experience and the character of
23 such kinds of business for the purpose of adequately protecting
24 the insured and securing the solvency of the insurer.

25 With respect to liability and common carrier liability insurance,
26 the regulations shall be consistent with Section 11558.

27 The commissioner may prescribe the manner and form of
28 reporting pertinent information concerning the reserves provided
29 for in this section.

30 This section shall not apply to life insurance, title insurance,
31 disability insurance, mortgage insurance, or mortgage guaranty
32 insurance.

33 ~~SEC. 5.~~

34 *SEC. 4.* Section 1064.13 is added to the Insurance Code, to
35 read:

36 1064.13. (a) Upon receipt of a notice of liquidation the
37 commissioner shall cease imposing, billing or collecting fees and
38 assessments against the subject company pursuant to this code.

39 (b) Upon receipt of a notice of conservation or administrative
40 supervision the commissioner may cease to impose, bill, or

1 collect fees against the subject company pursuant to this code.
2 Following the date the order has been lifted the commissioner
3 may once again impose, bill, or collect fees against the subject
4 company.

5 (c) Upon receipt of a notice of liquidation all outstanding
6 invoices, billings or assessments pursuant to this code prior to the
7 date of the notice shall be cancelled.

8 (d) Upon issuance of a notice of conservation or
9 administrative supervision, outstanding amounts due from the
10 subject company imposed prior to the date of the conservation or
11 administrative supervision, may be held in abeyance and remain
12 unpaid until the conservation or administrative supervision is
13 terminated. Late filing fees accrued pursuant to Section 12995 of
14 this code shall not be imposed.

15 (e) If it is determined that an insurer is in any of the conditions
16 enumerated in Section 1011, and it is determined that all
17 available funds are needed to pay policyholders, the
18 commissioner may suspend the imposition of fees or assessments
19 until the condition of the insurer has improved to the extent
20 where payment of fees or assessments will not harm
21 policyholders.

22 ~~SEC. 6.~~

23 *SEC. 5.* Section 1215.13 of the Insurance Code is amended to
24 read:

25 1215.13. (a) For the purposes of this article only, every
26 foreign insurer, except an insurer described in Article 2
27 (commencing with Section 12350) of Chapter 1 of Part 6 of
28 Division 2, that is authorized to do business in this state and that,
29 during its three preceding fiscal years taken together, or during
30 any lesser period of time if it has been licensed to transact its
31 business in California only for such lesser period of time, has
32 written an average of more direct premiums in the State of
33 California than it has written in its state of domicile during the
34 same period, and those direct premiums written constitute 33
35 percent or more of its total direct premiums written everywhere
36 in the United States for that three-year or lesser period, as
37 reported in its three most recent annual statements, shall be
38 deemed a “commercially domiciled insurer” within the State of
39 California.

(b) The commissioner may exempt from the provisions of this article any commercially domiciled insurer made subject to this article by subdivision (a) if he or she determines that it has a sufficiently large amount of assets and the evidences of title thereto physically located in California, or that the ratio of those assets to its California policyholder liability is sufficiently large, as to justify the conclusion that there is no reasonable danger that the operations or conduct of the business of the insurer could present a danger of loss to California policyholders. The commissioner may also exempt from the provisions of this article any commercially domiciled insurer made subject to this article by subdivision (a) under the circumstances that he or she deems appropriate.

(c) This section does not exempt any foreign insurer that is authorized to do business in this state, including a commercially domiciled insurer, from the provisions of any other sections of this article that may be applicable to the insurer.

~~SEC. 7. Section 1658 of the Insurance Code is amended to read:~~

~~1658. Each application filed by a natural person for a license shall contain the residence address, the principal business address, the mailing address, and an electronic mailing address of the applicant. Each application for an organization license shall contain the principal business address, the mailing address, and an electronic mailing address of the applicant.~~

~~SEC. 8:~~

~~SEC. 6. Section 1676 of the Insurance Code is amended to read:~~

~~1676. (a) Except as set forth in Sections 1675 and 1679, the commissioner shall not issue a permanent license pursuant to this chapter to an applicant therefor unless the applicant has within the 12-month period next preceding the date of issue of the license taken and passed the qualifying examination for that license. This section shall not apply to a person licensed as a fire and casualty broker-agent who applies for a license as a personal lines broker-agent.~~

~~(b) An applicant for a personal lines license pursuant to Section 1625.5 who has been continually employed by an admitted insurer or licensed fire and casualty broker-agent in a full-time position for at least three years immediately prior to~~

1 January 1, 2001, shall be exempted, at the discretion of the
2 commissioner, from having to take and pass an examination to
3 obtain a personal lines license. An exempted applicant shall be
4 required to comply with all other provisions of this article
5 pertaining to the issuance and maintenance of a personal lines
6 license. The curriculum board shall establish criteria, which shall
7 be submitted to the commissioner for final approval, to allow
8 experience or prior training to be substituted for prelicensing
9 educational requirements for applicants applying for an
10 exemption pursuant to this subdivision. A licensee exempted
11 from examination pursuant to this subdivision shall remain
12 subject to all continuing education requirements applicable to
13 maintaining a personal lines license.

14 (c) An application for a personal lines license shall be
15 submitted to the commissioner as provided for in Article 4
16 (commencing with Section 1652).

17 (d) The commissioner may deny any application for a personal
18 lines license as provided in Article 6 (commencing with Section
19 1666).

20 (e) In addition to the application, any applicant for a personal
21 lines license seeking exemption from the examination provisions
22 of this chapter shall also submit, on a form prescribed by the
23 commissioner, or if a form is not prescribed, in letter or resumé
24 form, information that will permit the commissioner to determine
25 whether the previous experience of the applicant for a personal
26 lines license warrants an exemption from having to take an
27 examination to obtain a license.

28 (f) The commissioner shall require an applicant for a personal
29 lines license to take an examination to obtain a license if the
30 commissioner determines that the applicant has failed to
31 demonstrate that previous experience warrants an exemption
32 from examination. In the absence of making that determination,
33 the request for exemption from examination shall be granted.

34 (g) This section shall not be applicable to any applicant for a
35 nonresident license pursuant to subdivision (b) of Section 1639.

36 (h) This section shall not be applicable to any applicant for a
37 personal lines license who has been refused a license or has had a
38 license suspended or revoked by the commissioner.

39 (i) An applicant for a personal lines license pursuant to Section
40 1625.5 who seeks an exemption from an examination to obtain a

1 license shall submit a request to that effect to the commissioner.
2 An applicant who does not submit an application on or before
3 December 31, 2001, shall be required to take an examination to
4 obtain a license.

5 (j) An applicant for a life agent license pursuant to Section
6 1626 who is limited by the terms of a written agreement with an
7 insurer which has filed on that life agent's behalf a notice of
8 appointment with the commissioner to transact only specific life
9 insurance policies or annuities having an initial face amount of
10 fifteen thousand dollars (\$15,000) or less that are designated by
11 the purchaser for the payment of funeral and burial expenses,
12 shall not be required to take the full life agent examination to
13 obtain a license. The applicant shall be required to take an
14 examination developed to test their knowledge of topics relevant
15 to the type of policies that they are restricted to sell.

16 ~~SEC. 9.~~

17 *SEC. 7.* Section 1707 of the Insurance Code is amended to
18 read:

19 1707. Except as otherwise provided in Section 1704.5, each
20 notice of appointment or notice of termination of appointment
21 filed pursuant to this article shall be filed on forms prescribed by
22 the commissioner within 15 days of appointment or termination.

23 ~~SEC. 10.~~ ~~Section 1727.5 is added to the Insurance Code, to~~
24 ~~read:~~

25 ~~1727.5. Every individual licensed to sell insurance who issues~~
26 ~~a receipt as proof of payment shall maintain a copy of the receipt~~
27 ~~as required by Section 1727. The following information shall be~~
28 ~~included on all receipts:~~

- 29 (a) ~~A control number.~~
30 (b) ~~Date and time the receipt was issued.~~
31 (c) ~~Printed name of payor.~~
32 (d) ~~Amount of payment.~~
33 (e) ~~Type of insurance, policy number, or binder number.~~
34 (f) ~~Type of payment such as, but not limited to, down payment~~
35 ~~or monthly payment.~~
36 (g) ~~Method of payment such as, but not limited to, cash,~~
37 ~~check, money order, or credit card.~~
38 (h) ~~Agent's printed name, address, phone number and license~~
39 ~~number.~~

1 (i) ~~Signature and printed name of person receiving the~~
2 ~~payment from payor.~~

3 ~~SEC. 11. Section 1729 of the Insurance Code is amended to~~
4 ~~read:~~

5 ~~1729. Every licensee and every applicant for a license shall~~
6 ~~immediately notify the commissioner in writing of any change in~~
7 ~~his or her address, including any changes in licensee's or~~
8 ~~applicant's electronic mailing address, as given to the~~
9 ~~commissioner pursuant to Sections 1658 and 1728.~~

10 ~~SEC. 12.~~

11 ~~SEC. 8. Section 1733 of the Insurance Code is amended to~~
12 ~~read:~~

13 ~~1733. All funds received by any person acting as an insurance~~
14 ~~agent, broker, or solicitor, life agent, life analyst, surplus line~~
15 ~~broker, special lines surplus line broker, motor club agent, bail~~
16 ~~agent, permittee, administrator as defined in Section 1759, or~~
17 ~~solicitor, as premium or return premium on or under any policy~~
18 ~~of insurance or undertaking of bail, are received and held by that~~
19 ~~person in his or her fiduciary capacity. Any such person who~~
20 ~~diverts or appropriates those fiduciary funds to his or her own use~~
21 ~~is guilty of theft and punishable for theft as provided by law. Any~~
22 ~~premium that a premium financier agrees to advance pursuant to~~
23 ~~the terms of a premium finance agreement shall constitute~~
24 ~~fiduciary funds as defined in this section only if actually received~~
25 ~~by a person licensed in one or more of the capacities herein~~
26 ~~specified.~~

27 ~~SEC. 13.~~

28 ~~SEC. 9. Section 1749 of the Insurance Code is amended to~~
29 ~~read:~~

30 ~~1749. The department shall require all new applicants for~~
31 ~~license as a fire and casualty broker-agent, personal lines~~
32 ~~broker-agent, or as a life agent to meet prelicensing education~~
33 ~~standards as follows:~~

34 (a) ~~Require a minimum of 40 hours of prelicensing classroom~~
35 ~~study as a prerequisite to qualification for a fire and casualty~~
36 ~~broker-agent license. The curriculum for satisfying this~~
37 ~~requirement shall be approved by the curriculum board and~~
38 ~~submitted to the commissioner for final approval. Any additions~~
39 ~~to the minimum requirements provided by this section shall be~~

1 approved by the curriculum board pursuant to Section 1749.1 and
2 certified by the department.

3 (b) Require a minimum of 20 hours of prelicensing classroom
4 study as a prerequisite for qualification for a personal lines
5 broker-agent license. The curriculum for satisfying this
6 requirement shall be approved by the curriculum board and
7 submitted to the commissioner for final approval. Any additions
8 to the minimum requirements provided by this section shall be
9 approved by the curriculum board pursuant to Section 1749.1 and
10 certified by the department.

11 (c) Require a minimum of 40 hours of prelicensing classroom
12 study as a prerequisite for qualification for a life agent license.
13 The curriculum for satisfying this requirement shall be approved
14 by the curriculum board and submitted to the commissioner for
15 final approval. Any additions to the minimum requirements
16 provided by this section shall be approved by the curriculum
17 board pursuant to Section 1749.1 and certified by the department.
18 This curriculum shall also include instruction in workers'
19 compensation and general principles of employers' liability.

20 (d) In addition to the 40 hours prelicensing education required
21 to qualify for a license as a fire and casualty broker-agent or life
22 agent, or the 20 hours prelicensing education required to qualify
23 for a license as a personal lines broker-agent, the department
24 shall require 12 hours of study on ethics and this code. Where an
25 applicant seeks a license for both the fire and casualty
26 broker-agent license and the life license, the applicant shall only
27 be required to complete one 12-hour course on ethics and this
28 code. The curriculum for satisfying this requirement shall be
29 approved by the curriculum board and submitted to the
30 commissioner for final approval.

31 (e) An applicant for a life agent license, a fire and casualty
32 broker-agent license, or a personal lines broker-agent license who
33 is currently licensed as such in another state and who has
34 completed 40 hours of prelicensing education as a requirement
35 for licensing in that state shall be required to complete only the
36 course of study on ethics and the Insurance Code, as required by
37 Section 1749. Additionally, any applicant for such a license
38 holding one or more of the designations specified in subdivisions
39 (a) to (e), inclusive, of Section 1749.4 shall be exempted from

1 any requirement for courses in general insurance that would
2 otherwise be a condition of issuance of the license.

3 (f) An applicant for a fire and casualty broker-agent license
4 who is licensed as a personal lines agent shall complete a
5 minimum of 20 hours prelicensing classroom study as a
6 prerequisite. The curriculum for satisfying this requirement shall
7 be approved by the curriculum board and submitted to the
8 commissioner for final approval. The applicant shall not be
9 required to repeat any prelicensing requirements completed as a
10 prerequisite to being licensed as a personal lines agent.

11 (g) Prelicensing certificates of completion expire three years
12 from the completion date of the course, whether or not a license
13 is issued.

14 ~~SEC. 14.~~

15 *SEC. 10.* Section 1775.4 of the Insurance Code is amended to
16 read:

17 1775.4. (a) The amount of the payment shall be 3 percent of
18 the gross premiums less return premiums upon business done by
19 the surplus line broker under the authority of his or her license
20 during the calendar month ending two calendar months
21 immediately preceding the due date of the payment, as specified
22 in Section 1775.3, excluding gross premiums and return
23 premiums paid by him or her upon business governed by the
24 provisions of Section 1760.5. If during any calendar month those
25 return premiums upon business done by a surplus line broker
26 exceed the gross premiums upon the business done by him or her
27 in that calendar month, then no payment shall be payable by him
28 or her in respect to that calendar month, and he or she may carry
29 forward that excess to the next succeeding calendar month or
30 months and apply it in reduction of the taxable premiums on
31 business done by him or her in that succeeding calendar month or
32 months. Even though no payment shall be payable by the broker,
33 he or she shall file a return showing that his or her return
34 premiums exceeded his or her gross premiums.

35 (b) In determining the applicability of subdivision (a) of
36 Section 1775.1 to a surplus line broker who has acquired the
37 business of another surplus line broker, the amount of tax
38 liability of the acquired broker for the immediately preceding
39 calendar year shall be added to the amount of the tax liability of
40 the acquiring broker for the immediately preceding calendar year.

1 (c) All amounts paid, other than penalties and interest, shall be
2 allowed as a credit on the annual tax imposed by Section 1775.5.

3 (d) If the total amount of monthly installment payments for
4 any calendar year exceeds the amount of annual tax for that year,
5 the excess shall be treated as an overpayment of annual tax and
6 be allowed as a credit or refund.

7 (e) A penalty of 10 percent of the amount of the monthly
8 payment due shall be levied upon and paid by any surplus line
9 broker who fails to make the necessary payment within the time
10 required, plus interest at the rate of 1 percent per calendar month
11 or fraction thereof from the due date of the payment until the date
12 payment is received by the commissioner, but not for any period
13 after the due date of the annual tax. The penalty and interest shall
14 be applied as prescribed in Section 12636.5 of the Revenue and
15 Taxation Code. The commissioner may remit the penalty in a
16 case where he or she finds, as a result of examination or
17 otherwise, that the failure of, or delay in, payment arose out of
18 excusable mistake or excusable inadvertence.

19 (f) For any part of a payment required that was not made
20 within the time required by law, when the nonpayment or late
21 payment was due to fraud on the part of the taxpayer, a penalty
22 of 25 percent of the amount unpaid shall be added thereto, in
23 addition to all other penalties otherwise imposed.

24 (g) The commissioner, upon a showing of good cause, may
25 extend for not to exceed 10 days the time for making a monthly
26 payment. The extension may be granted at any time, provided
27 that a request therefor is filed with the commissioner within or
28 prior to the period for which the extension may be granted. Any
29 surplus line broker to whom an extension is granted shall, in
30 addition to the monthly payment, pay interest at the rate of 1
31 percent per month, or fraction thereof, from the due date until the
32 annual tax due date.

33 ~~SEC. 15.~~

34 *SEC. 11.* Section 1808 of the Insurance Code is amended to
35 read:

36 1808. (a) Annual notices of intention to keep licenses in
37 force or applications for renewal of licenses, as the case may be,
38 may be filed on or before June 30th of each year upon payment
39 of the fees for filing specified in Section 1811.

40 (b)

1 Upon failure to file such notice or application as provided in
2 subdivision (a) , the license shall expire on July 1st, but the
3 holder may file an application for a new license. Until June 30th
4 next succeeding the fee shall be twice that specified in Section
5 1811 for such filing.

6 (c) No notice or application shall be deemed filed within the
7 meaning of this section unless the document itself has been
8 actually delivered to, and the proper fee for its filing has been
9 paid at, the office of the commissioner during office hours, or
10 unless both such document and fee have been filed and remitted
11 pursuant to Sections 11002 and 11003 of the Government Code.

12 ~~SEC. 16.~~

13 *SEC. 12.* Section 11549 is added to the Insurance Code, to
14 read:

15 11549. (a) Pursuant to this section, a mutual holding
16 company may merge into a foreign mutual holding company that
17 is domiciled in a state to which the converted insurer has
18 transferred its domicile or will transfer its domicile concurrently
19 with the merger. The merger shall be effected pursuant to an
20 agreement of merger between the mutual holding company and
21 the foreign mutual holding company in accordance with the
22 General Corporation Law, to the extent not inconsistent with this
23 section. The merger shall take effect upon filing the agreement of
24 merger with the California Secretary of State after compliance
25 with the following:

26 (1) Approval of the agreement of merger by a resolution of the
27 majority of the board of directors of the mutual holding company
28 and signing of the agreement of merger by the parties thereto.

29 (2) Approval of an amendment to the converted insurer's plan
30 of conversion in accordance with Section 11547 by a resolution
31 of the majority of the board of directors of the converted insurer
32 in order to reflect appropriately the merger and transfer of
33 domicile.

34 (3) Submission of the agreement of merger and the
35 amendment to the commissioner for consent in writing.

36 (4) Approval of the agreement of merger by a majority of the
37 members of the mutual holding company who vote at a meeting
38 called for that purpose.

39 (5) Approval of the amendment by a majority of the members
40 of the mutual holding company who were members of the

1 converted insurer and were entitled to vote on the original plan of
2 conversion approved pursuant to subdivision (c) of Section
3 11536 and who vote at a meeting called for the purpose.

4 (6) Filing of the agreement of merger in the office of the
5 commissioner after having been consented to and approved as
6 contemplated by paragraphs (2), (3), (4), and (5).

7 (b) The submission to the commissioner prescribed in
8 paragraph (3) of subdivision (a) shall be accompanied by a filing
9 fee of eight thousand one hundred dollars (\$ 8,100.00), evidence
10 that the foreign mutual holding company that will survive the
11 merger is qualified as a foreign corporation under the General
12 Corporation Law, and any other relevant information that the
13 commissioner may require.

14 (c) The meetings of members prescribed in paragraphs (4) and
15 (5) of subdivision (a) and shall be called by the board of
16 directors, the chairperson of the board, or the president of the
17 mutual holding company, and may be combined at a single
18 meeting with separate voting by those eligible to vote on the
19 matters referred to in paragraphs (4) and (5) of subdivision (a).
20 Notice of the meeting shall be given by mail to members entitled
21 to vote at the meeting at least 30 days prior to the date set for the
22 meeting. Voting shall be by ballot, in person, or by proxy. A
23 quorum for each such matter consists of 5 percent of the
24 members of the mutual holding company entitled to vote at the
25 meeting on such matter.

26 (d) The commissioner shall consent to any proposed merger
27 and amendment if he or she determines that the merger will be
28 fair and equitable to the mutual holding company and its
29 members.

30 ~~SEC. 17.~~

31 *SEC. 13.* Section 11558 of the Insurance Code is amended to
32 read:

33 11558. The minimum reserve requirements prescribed by the
34 commissioner in regulations promulgated pursuant to Section
35 923.5 for outstanding losses and loss expenses for each of the
36 most recent three years for coverages included in the lines of
37 business described in the annual statement as liability other than
38 automobile bodily injury and automobile liability bodily injury
39 shall be not less than

1 60 percent of earned premiums during each year less the
2 amount already paid for losses and expenses incidental thereto
3 incurred during each such year.

4 The commissioner may prescribe the manner and form of
5 reporting pertinent information concerning the reserves provided
6 for in this section.

7 ~~SEC. 18.~~

8 *SEC. 14.* Section 11629.85 of the Insurance Code is amended
9 to read:

10 11629.85. (a) On or before March 1 of each year, the
11 commissioner shall prepare and propose a plan to the Senate
12 Committee on Banking, Finance, and Insurance and the
13 Assembly Committee on Insurance setting forth the methods the
14 commissioner intends to implement to inform households eligible
15 for the program about the availability of low-cost automobile
16 insurance. To be eligible for funding through the budget process,
17 the plan shall be reviewed by the Senate Committee on Banking,
18 Finance, and Insurance and the Assembly Committee on
19 Insurance. The information required under subdivision (c) shall
20 also be provided to the Senate Committee on Transportation and
21 Housing and the Assembly Committee on Transportation.

22 (b) The plan shall include, at a minimum, a brief description of
23 methods proposed to be used, anticipated costs, sources of
24 revenue, goals, targets, objectives, and a justification of the
25 proposed methods. The plan shall also explain how the
26 department proposes to work in cooperation with the California
27 Automobile Assigned Risk Plan, the social service departments
28 in eligible counties, the Department of Motor Vehicles, and
29 community-based organizations in order to inform eligible
30 households of the existence of the program.

31 (c) The plan shall also include all of the following:

32 (1) The commissioner's determination regarding whether the
33 program has been successful, based on the criteria specified in
34 subdivision (d), and an explanation regarding that success or lack
35 thereof.

36 (2) In cooperation with the California Automobile Assigned
37 Risk Plan, structural characteristics of the program that may
38 require statutory revision in order for the program to succeed or
39 to improve upon existing success.

(3) Impediments to success of the program that can reasonably be overcome by revision to the strategies adopted by the department.

(4) A detailed explanation of the department's use for the program of funds assessed pursuant to Section 1872.81.

(5) For the previous calendar year, a list of the total low-cost auto premium for each county in which the program was available.

(6) The most recent annual report to the Legislature on the status of the low-cost automobile insurance program from the California Automobile Assigned Risk Plan.

(d) The program is successful if the following occur:

(1) The program generated sufficient premiums to cover losses incurred under policies issued under the program, and expenses incurred by the program, as calculated pursuant to subdivision (c) of Section 11629.72.

(2) The program served the public purpose of offering access to automobile insurance to otherwise underserved communities in the program areas.

(3) The program offered access to automobile insurance to previously uninsured motorists seeking affordable coverage in the program areas.

(e) Any written or oral advertisements, including, but not limited to, paid or unpaid commercial or noncommercial advertising, by the department with reference to the low-cost automobile insurance program shall reference the department and shall not reference the commissioner by name or office, or include the commissioner's voice, image, or likeness. The department shall not participate with any nongovernmental entity that produces or intends to produce advertisements or educational material that include the name of the commissioner or his or her voice, image or likeness, and that are intended to make eligible households aware of the existence of low-cost automobile insurance.

~~SEC. 19.~~

SEC. 15. Section 12253 of the Revenue and Taxation Code is amended to read:

12253. Each insurer required to make prepayments shall remit them on or before each of the dates of April 1st, June 1st, September 1st and December 1st of the current calendar year.

1 Remittances for prepayments shall be made payable to the
2 Controller and shall be delivered to the office of the
3 commissioner, accompanied by a prepayment form prescribed by
4 the commissioner.

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